IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14023 of 2004

Between:

Atyala Gangaiah, S/o.Ankaiah,
R/o.P.Nayudupalem, Chimakurthi Mandal, Prakasam Dist.

..... PETITIONER

AND

1 The Joint Collector, Prakasam Dist. Ongole.
2 The Revenue Divisional officer, Ongole, Prakasam Dist.
3 The Mandal Revenue officer, Chimakurthi Mandal, Chimakurthi, Prakasam Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other writ, order or direction, in the nature of writ, declaring the order passed in R.C.Cs.2/2431/2004, dated 27-7-2004 of the 1st respondent as arbitrary, illegal and unjustified and consequently to grant stay of the order of the 2nd respondent passed in proceedings RC. C.838/2004, dated 21-7-2004 pending disposal of the Appeal against the same filed by the petitioner before the 1st respondent.

Counsel for the Petitioner: MR.G.PEDDA BABU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.14023 OF 2004

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents.

The petitioner is the authorized dealer in respect of the fair price shop of P.Nayudupalem village, Chimakurthi Mandal of Prakasham District. His authorization was suspended pending enquiry vide proceedings dated 21.7.2004 of the Revenue Divisional Officer, second respondent herein. Aggrieved by the same, the petitioner preferred an appeal before the first respondent-Joint Collector, Prakasham District. The first respondent having entertained the appeal by an order dated 27.7.2004 rejected the application filed by the petitioner for stay of the operation of order of suspension dated 21.7.2004. Aggrieved by the same, this writ

petition is filed.

The learned Counsel for the petitioner contends that all the allegations made against the petitioner in the show-cause notice are false and baseless and at any rate they are trivial in nature and therefore, the first respondent is not justified in rejecting the application for stay pending Appeal.

A perusal of the impugned order of the first respondent shows that the said order has been passed mechanically without reference to anyone of the contentions raised by the petitioner and without assigning any reasons for rejecting the stay pending Appeal.

Having regard to the facts and circumstances of the case and since the statutory appeal is pending before the Joint Collector and particularly in view of the fact that the enquiry into alleged irregularities is still continuing, I am of the view that the balance of convenience is in favour of the petitioner and it would be appropriate to allow the petitioner to distribute the commodities till disposal of the appeal.

Accordingly the impugned order dated 27.7.2004 is hereby set aside and the writ petition is disposed of with a direction to the first respondent to dispose of the appeal filed against the order of the second respondent dated 21.7.2004, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this Order. Till disposal of the appeal, the order of suspension dated 21.7.2004, passed by the second respondent shall not be given effect to.

The writ petition is accordingly disposed of. No costs.

10.8.2004.

mdaa.

Copy to :

1 The Joint Collector, Prakasam Dist. Ongole.
2 The Revenue Divisional officer, Ongole, Prakasam Dist.
3 The Mandal Revenue officer, Chimakurthi Mandal, Chimakurthi, Prakasam Dist.

4. Two C.Cs.to G.P.for Civil Supplies, High Court of A.P., Hyderabad (OUT)

5. Two C.D.Copies.